



Signed and Filed: December 18, 2019

Dennis Montali

DENNIS MONTALI
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re:) Bankruptcy Case
PG&E CORPORATION,) No. 19-30088-DM
- and -) Chapter 11
PACIFIC GAS AND ELECTRIC COMPANY,) Jointly Administered
Debtors.)
Date: October 7, 2019
☐ Affects PG&E Corporation) Time: 10:00 AM
☐ Affects Pacific Gas and) Place: Courtroom 17
Electric Company) 450 Golden Gate Ave.
☒ Affects both Debtors) 16th Floor
San Francisco, CA
* All papers shall be filed in)
the Lead Case, No. 19-30088 (DM).)

AMENDED¹ ORDER GRANTING FEE EXAMINER'S
MOTION TO APPROVE FEE PROCEDURES

On May 28, 2019, this court entered an order appointing
Bruce A. Markell as the Fee Examiner in these chapter 11 cases.
In accordance with that order, the Fee Examiner filed a Notice
of Terms of Protocol Regarding Submission of Fee Applications on

¹ The court has revised paragraph 2(b) for clarity. The revisions are noted
in bold.

1 August 30, 2019 ("Protocol") (dkt. 3762). On September 19,
2 2019, the Fee Examiner filed the underlying Motion to Approve
3 Fee Procedures ("Fee Procedures Motion") (dkt. 3950) seeking
4 court approval of procedures set forth in the Protocol. Nine
5 law firms filed a joint response (dkt. 4064) and Milbank LLP
6 (dkt. 4050) filed a separate response opposing several material
7 terms of the Protocol and the Fee Procedures Motion. The United
8 States Trustee ("UST") filed a response (dkt. 4025) largely
9 supporting the Fee Procedures Motion, which The Utility Reform
10 Network (dkt. 4475) joined.

11 After issuing a tentative ruling on October 6, 2019, the
12 court held a hearing on the Fee Procedures Motion in support of
13 the Fee Examiner's motion to approve fee procedures (dkt. 3950)
14 the following day. The court encouraged the Fee Examiner and
15 those parties responding to the Protocol and Fee Procedures
16 Motion to meet and confer to attempt to resolve their disputes
17 as to the terms of proposed Protocol.

18 On October 24, 2019, the Fee Examiner filed a reply (dkt.
19 4475) indicating that the parties had negotiated the terms of a
20 revised protocol, thereby addressing all issues except the
21 ability of professionals to bill for non-working travel. On the
22 same date, Debtors filed a copy of the Revised Protocol and a
23 red-lined version of the Revised Protocol (dkt. 4473). Section
24 5.1.8 (Travel Billing) provides two alternates:

25 Alternate Provision 1: Non-working travel time is
26 compensable at 50% of the Biller's standard hourly rate.

27 Alternate Provision 2: Non-working travel time is
28 compensable as provided in the existing Local Guidelines
and Court Guidelines.

1 (dkt. 4473-1 at ECF pg. 10).

2 The court's position on nonworking travel time has been
3 published and in place for over eighteen years. Consistency and
4 predictability are important and will not be disturbed absent
5 good reason. All employed professionals took on their
6 assignments in these cases with knowledge or at least notice of
7 the court's requirements in this area. None sought relief at
8 the outset of their employment. Those who chose to adopt a 50%
9 non-working travel time protocol did so at their own risk.

10 "Better to ask forgiveness than permission" will not carry the
11 day. The Court will not deviate from its existing Practices &
12 Procedures, and will allow only two hours to be billed for non-
13 working airplane travel time. See *PRACTICES AND PROCEDURES IN*
14 *JUDGE MONTALI'S COURT* (July 2018) at III(I), page 12 (available
15 at [http://www.canb.uscourts.gov/procedure/montali/judge-](http://www.canb.uscourts.gov/procedure/montali/judge-montalis-practices-and-procedures)
16 [montalis-practices-and-procedures](http://www.canb.uscourts.gov/procedure/montali/judge-montalis-practices-and-procedures)).

17 In light of the foregoing, and good cause appearing
18 therefor, it is hereby ORDERED that:

- 19 1. The Fee Examiner's Motion to set Fee Procedures is
20 granted as provided herein.
- 21 2. As to any currently pending interim fee application
22 (defined as any interim fee application filed before
23 November 15, 2019):
 - 24 a. Only the Fee Examiner shall have authority to set
25 a hearing date, and such dates shall be set under
26 the provisions of Paragraph 9 of the Order
27 Appointing Fee Examiner, i.e., after a final
28

1 report, in coordination with Debtors' counsel,
2 and grouped to advance judicial economy.

- 3 b. If a fee applicant and the Fee Examiner have
4 reached a compromise, a hearing should be set on
5 the same basis and be coordinated with other fee
6 hearings, so that hearings are grouped to advance
7 judicial economy. **Any hearing on a fee**
8 **application exceeding \$1,000 shall be heard on 21**
9 **days notice as required by Fed. R. Bankr. Pro.**
10 **2002(a)(6) and the notice of hearing shall comply**
11 **with Fed. R. Bankr. Pro. 2002(c)(2).**
12 **Additionally, the notice should set forth the**
13 **deadline for objections, identify the amount**
14 **applied for, the amount of any compromise with**
15 **the Fee Examiner, and the net amount claimed.**
16 **The notice should also state that all**
17 **professionals may appear via CourtCall.**

- 18 3. As to future cycles of interim fee applications, the
19 following procedures shall be implemented;

- 20 a. Interim fee applications shall be considered
21 every four months, as provided for in the Order
22 [Establishing] Procedures for Interim
23 Compensation and Reimbursement of Expenses of
24 Professionals entered on February 28, 2019 (dkt.
25 701). The next deadline to file an interim fee
26 application shall be March 15, 2020, and future
27 interim applications may be filed at four-month
28 intervals. If an interim fee application is

1 filed after the deadline, it will be deemed filed
2 at the next interval. Each application will
3 cover fees and expenses incurred through the end
4 of the second full month preceding the deadline.

5 b. In the discretion of the Fee Examiner, the
6 hearing dates on the interim applications will be
7 grouped into three blocks as follows:

8 i. The "core" debtors' counsel and committee
9 counsel (Keller Benvenutti, Weil Gotshal,
10 Cravath, Milbank, and Baker Hostetler);

11 ii. Debtors' other legal counsel subject to fee
12 examination; and

13 iii. Non-legal professionals.

14 4. The Fee Examiner will determine when each block is set
15 for hearing, attempting to do so in a manner
16 respecting judicial economy and the efficient use of
17 Fee Applicants' time. The Fee Examiner may set each
18 block on a different day. The goal is to group
19 applications such that duplication of effort can be
20 more easily detected (if it exists), and to also
21 spread out the work of the Fee Examiner and his
22 limited staff.

23 5. Any Revised Protocol agreed to by the parties should
24 provide "Non-working travel time is compensable as
25 provided in the existing Local Rules and Court
26 Guidelines."

27 ****END OF ORDER****